

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

MASTER CONSOLIDATED COMPLAINT
(ASBESTOS PERSONAL INJURY, LOSS OF CONSORTIUM)
(TRIAL BY JURY DEMANDED)

Terry J Cook	)	CASE NO.
Mary Cook)	
Client ID: 9122)	
4496 county Road 45	)	JUDGE
Steubenville, OH 43952-)	
)	
and)	
)	
Gary W Fisher	)	CASE NO.
Darlene Fisher)	
Client ID: 8284)	
117 Andrews Dr.	)	JUDGE
Wintersville, OH 43953-)	
)	
and)	
)	
Donald R Giffin	)	CASE NO.
Susan Giffin)	
Client ID: 3775)	
14008 Twp Rd. 166	)	JUDGE
Bloomington, OH 43910)	

1

and

Robert C Kirkpatrick
Shirley Kirkpatrick
Client ID: 7833
82 Mary Ave.
Bloomington, OH 43910-

CASE NO.

JUDGE

and

Anthony Carpini
Helen Carpini
Client ID: 8012
132 Crist Lane
Weirton, WV 26062

CASE NO.

JUDGE

and

Arthur Chappell
Emma Chappell
Client ID: 5669
565 North 10th St.
Weirton, WV 26062

CASE NO.

JUDGE

and)	
)	
Stephen D Cool	)	CASE NO.
Sandra Cool)	
Client ID: 9131)	
RD #2 Box 70	)	JUDGE
New Cumberland, WV 26047-)	
)	
)	
and)	
)	
Willis R Curenton	)	CASE NO.
Ann Curenton)	
Client ID: 9542)	
128 Wares Dr.	)	JUDGE
Weirton, WV)	
)	
)	
and)	
)	
Eddy M Ensminger	)	CASE NO.
Vicki Ensminger)	
Client ID: 4667)	
100 Chips Lane	)	JUDGE
Follansbee, WV 26037-)	
)	
)	
and)	
)	
)	
Marvin J Everly	)	CASE NO.

3

Judee Everly
Client ID: 4030
RR #1 Box 316
New Cumberland, WV 26047-

JUDGE

and

John J Givens
Karen Givens
Client ID: 4977
PO Box 757
New Cumberland, WV 26047

CASE NO.

JUDGE

and

Robert A Gordon
MaryAnn Gordon
Client ID: 1377
105 Highland Ave. Box 96
Avella, PA 15312

CASE NO.

JUDGE

and

Norman G Haddox
Darlene Haddox
Client ID: 6878
RD #3 Box 323

CASE NO.

JUDGE

4

New Cumberland, WV 26047-

and

Gary L Hall
Client ID: 6947
1053 Walker Rd.
Follansbee, WV 26037-

and

Robert L Harbin
Client ID: 8021
105 Apt 6 May Rd
Follansbee, WV 26037-

and

Eric P Haught
Client ID: 6776
PO Box 151
Follansbee, WV 26037-

and

William L Higginbotham

CASE NO.

JUDGE

CASE NO.

JUDGE

CASE NO.

JUDGE

CASE NO.

5

Pamela Higginbotham
Client ID: 7131
805 Donegal Dr W
Follansbee, WV 26037-

JUDGE

and

Floyd S Howell
Client ID: 6378
RD #1 Box 201
Weirton, WV 26062-

CASE NO.

JUDGE

and

Charles M Jeffers
Mary Jeffers
Client ID: 9884
112 Shady Ave.
Weirton, WV 26062-

CASE NO.

JUDGE

and

John P Kallos
Client ID: 8460
301 Grimm Way
Weirton, WV 26062-

CASE NO.

JUDGE

6

and

Darrell W Keenan
Bella Keenan
Client ID: 9632
RR#1 Box 139
Colliers, WV 26035-

CASE NO.

JUDGE

and

Gary D Kirkpatrick
Client ID: 3471
2215 B Penn Ave.
Weirton, WV 26062-

CASE NO.

JUDGE

and

Michael W Labanna
Kimberly Labanna
Client ID: 0665
108 Frostview Dr.
Wintersville, OH 43953-

CASE NO.

JUDGE

and

Ernest A Lastoria
Client ID: 2322
PO Box 2101

CASE NO.

JUDGE

7

Weirton, WV 26062-

and

Donald O MacLachlan
Pat MacLachlan
Client ID: 2350
3902 Palisades Dr.
Weirton, WV 26062-

CASE NO.

JUDGE

and

Lee C McBurney
Nancy McBurney
Client ID: 7732
3601 Brightway
Weirton, WV 26062-

CASE NO.

JUDGE

and

David L McFerren
Donna McFerren
Client ID: 9917
101 Opal Blvd.
Steubenville, OH 43952-

CASE NO.

JUDGE

and

8

Larry G Merritt
Patricia Merritt
Client ID: 4023
1304 Hukill St.
Brilliant, OH 43913

CASE NO.

JUDGE

and

James K Miller
Client ID: 8041
3075 Crestline Dr.
Steubenville, OH 43952-

CASE NO.

JUDGE

and

Louis L Muscaro
Julia Muscaro
Client ID: 4567
146 Scenic Rd.
Weirton, WV 26062-

CASE NO.

JUDGE

and

Thomas J Nagy
Nancy Nagy
Client ID: 0669

CASE NO.

162 Highland Hills Dr.
Follansbee, WV 26037-

JUDGE

and

Gary L Nardo
Gail Nardo
Client ID: 3876
707 Second Ave
New Cumberland, WV 26047-

CASE NO.

JUDGE

and

Clair W Neeley
Cyrena Neeley
Client ID: 7404
PO Box 283
Princeton, ME 04668

CASE NO.

JUDGE

and

Joseph James Nicholson
Client ID: 2259
221 Genteel Ridge Rd
Wellsburg, WV 26070-2009

CASE NO.

JUDGE

and

Client ID: 6475
124 Beverly Ave.
Weirton, WV 26062

)
) JUDGE
)
)
)
)

and
)
)

Larry A Petry
Client ID: 7187
204 Jewett Rd
Steubenville, OH 43952-

) CASE NO.
)
) JUDGE
)
)
)
)

and
)
)

Homer L Phillips
MiLene Phillips
Client ID: 9757
196 Twp Hwy 156
Rayland, OH 43943

) CASE NO.
)
)
) JUDGE
)
)
)
)

and
)
)
)

Gene A Pilling
Tazyu Pilling
Client ID: 5449
RD 4 Box 153

) CASE NO.
)
)
) JUDGE
)

12

New Cumberland, WV 26047-

and

William J Polen
Alonna Polen
Client ID: 7415
239 Lisbon St.
Richmond, OH 43944

and

Joseph F Porter
Victoria Porter
Client ID: 0104
113 West Blvd
Mingo Jct, OH 43938-

and

Burl J Postlethwait
Virginia Postlethwait
Client ID: 2420
223 Washington Pk.
Wellsburg, WV 26070-

and

CASE NO.

JUDGE

CASE NO.

JUDGE

CASE NO.

JUDGE

John Prager
Ruth Prager
Client ID: 4917
RD # 4, Box 134
New Cumberland, WV 26047

CASE NO.

JUDGE

and

Frank R Pulice
Linda Pulice
Client ID: 8203
RR3 Box 41 N-5
Weirton, WV 26062-

CASE NO.

JUDGE

and

John A Pulice
Mary Pulice
Client ID: 6503
176 Kathleen Way
Weirton, WV 26062-

CASE NO.

JUDGE

and

Richard L Rex
Client ID: 8577

CASE NO.

PO Box 255
Toronto, OH 43964

JUDGE

and

Charlene Riley
Client ID: 6344
208 Simpson Rd
Bulger, PA 15019-

CASE NO.

JUDGE

and

Virgil R Robinson
Sheila Robinson
Client ID: 3297
RD 1 Box 752
Weirton, WV 26062-

CASE NO.

JUDGE

Plaintiffs

VS.

A.W. CHESTERTON, INC.
A Massachusetts Corporation
Middlesex Industrial Park
Stoneham, MA 02180

)

PFIZER,, INC.)	
c/o Statutory Agent)	
C.T. Corporation System)	
441 Vine Street, #3810)	
Cincinnati, OH 45202)	
)	
FOSTER WHEELER ENERGY)	
CORPORATION)	
A Delaware Corporation)	
c/o U. S. Company)	
Statutory Agent)	
50 West Broad Street, Suite 1800)	
Columbus, Ohio 43215)	
)	
HERSH PACKING & RUBBER CO.)	
c/o Stephen Ledbetter))
Statutory Agent)	
312 North High Street))
Canal Winchester, Ohio 43110)	
)	
F.B. WRIGHT COMPANY OF)	
PITTSBURGH)	
98 Vanadium Road)	
Bridgeville, PA 15017)	
)	
JNO. J. DISCH COMPANY)	
c/o James E. Disch, Jr.)	
1616 Coutant Avenue))
Lakewood, Ohio 44107)	
)	
GENERAL ELECTRIC CORPORATION)	

A Foreign Corporation)
C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, Ohio 44114)
)

RILEY STOKER CORP.)
A Massachusetts Corporation)
c/o C.T. Corp. System)
Statutory Agent)
1300 East Ninth Street, Suite 1010)
Cleveland, Ohio 44114)
)
CLARK INDUSTRIAL INSULATION CO.)
c/o Its Statutory Agent)
Richard E. Clark)
1893 E. 55th Street)
Cleveland, Ohio 44103)
)
METROPOLITAN LIFE INSURANCE)
COMPANY a/k/a/ METROPOLITAN)
INSURANCE COMPANY)
One Madison Avenue)
New York, NY 10010-3690)
)
WESTINGHOUSE ELECTRIC)
CORPORATION)
A Pennsylvania Corporation)
c/o C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, Ohio 44114)
)
RAPID-AMERICAN CORP.)
in its own right and as successor)
in interest to and liable)
for Philip Carey Corporation)
c/o C.T. Corporation System)

111 8th Avenue, 13th Floor)
New York, NY 10011)
)
PNEUMO ABEX CORPORATION)
successor in interest to Abex Corporation)
c/o Prentice Hall Corp.)
50 West Broad Street, Suite 1800)
Columbus, OH 43215)
)

ADIENCE, INC.)	
Successor in interest to Adience)	
Company, LP, as Successor to)	
BMI, Inc.)	
c/o C.T. Corporation System, S.A.)	
1300 East Ninth Street, Suite 1010)	
Cleveland, OH 44114))
)	
ALLIED GLOVE CORPORATION)	
P.O. Box 2126))
Milwaukee, WI 53201)	
)	
A. O. SMITH CORPORATION)	
c/o Prentice-Hall Corp. System)	
50 West Broad Street, Suite 1800)	
Columbus, Ohio 43215)	
)	
ATLAS INDUSTRIES, INC.))
P.O. Box 450)	
Carnegie, PA 15106)	
)	
BEAZER EAST, INC.)	
A Delaware Corporation)	
c/o C.T. Corporation System)	
1300 East Ninth Street #1010))
Cleveland, OH 44114))
)	

BORG-WARNER CORPORATION)

A Delaware Corporation)

The Corporation Trust Co.)

Corporation Trust Center)

1209 Orange Street)

Wilmington, DE 19801)

CORHART REFRACTORIES)

Rt. 6, Box 82)

Buckhannon,, WV 26201)

COOPER INDUSTRIES, INC.)

c/o C.T. Corporation System)

1021 Main, #1150)

Houston, Texas 77002)

DURABLA MFG. CO.)

2572 Industry Lane)

Norristown, PA 19403)

ERICSSON, INC., Successor in interest)

to the Continental Wire & Cable Company)

and Anaconda Wire & Cable Company)

6300 Legacy Drive)

Plano, TX 75024)

FAIRMONT SUPPLY COMPANY)

c/o C. T. Corporation System)

1021 Main, #1150)

Houston, Texas 77002)

GENERAL REFRACTORIES COMPANY)	
225 City Avenue, Suite 114)	
Bala Cynwyd, PA 19004)	
)	
GEORGE V. HAMILTON, INC.)	
River Avenue)	
McKees Rocks, PA 15136)	
)	
THE GOODYEAR TIRE & RUBBER)	
COMPANY)	
c/o C.T. Corporation System)	
350 N. St. Paul Street, Suite 2900)	
Dallas, Texas 75201)	
)	
GREFCO, INC.)	
A Delaware Corporation)	
225 City Line Avenue)	
Suite 114)	
Bala Cynwyd, PA 19004)	
)	
GREENE TWEED & CO.)	
P.O. Box 305)	
Kulpsville, PA 19443))
)	
GUARD-LINE, INC.)	
215-217 S. Louise)	
P.O. Box 1030))
Atlanta, TX 75551)	
)	
THE EDWARD R. HART COMPANY)	
P.O. Box 6207))

Canton, Ohio 44706)	
)	
INSUL COMPANY, INC.)	
c/o Brad Allison, Statutory Agent)	
139 North Market Street)	
East Palestine, OH 44413)	
)	
OAKFABCO, INC.)	
c/o Frederick W. Stern)	
1979 N. Mill Street, Suite 211)	
Naperville, IL 60563))
)	
M.V.S. COMPANY, as successor in)	
Interest to Mahoning Valley Supply Co.)	
c/o David E. Williams, S.A.)	
12060 Mallards Crossing)	
Petersburg, OH 44454)	
)	
THE MAU-SHERWOOD SUPPLY)	
COMPANY)	
c/o James D. Vail, Esq.)	
1111 Superior Avenue, #1000)	
Cleveland, OH 44114))
)	
THE MARMON GROUP, INC.)	
c/o Prentice Hall Corp.)	
33 N. LaSalle Street)	
Chicago, IL 60602-2607)	
)	
LOCKHEED MARTIN CORPORATION)	

(formerly Martin Marietta Corporation))	
6801 Rockledge Drive)	
Bethesda, MD 20817))
)	
MOBIL OIL CORPORATION)	
c/o John F. Tully)	
Room 1729 D)	
800 Bell Street))
Houston, TX 77002)	
)	
NITRO INDUSTRIAL COVERINGS, INC.))
P.O. Box 900)	
Washington, WV 26181)	
)	

NORTON COMPANY)	
N/k/a Saint-Gobain Abrasives, Inc.)	
c/o C.T. Corporation System)	
350 N. St. Paul Street, Suite 2900)	
Dallas, Texas 75201)	
)	
OGLEBAY NORTON COMPANY)	
and its division Ferro Engineering)	
1100 Superior Avenue, #2100)	
Cleveland, Ohio 44114)	
)	
OHIO PIPE & SUPPLY COMPANY)	
INCORPORATED)	
c/o James Irwin, Statutory Agent)	
14615 Lorain Avenue)	
Cleveland, OH 44111))
)	
OHIO VALLEY INSULATING)	
COMPANY, INC)	
c/o C.T. Corporation)	
1300 East Ninth Street, Suite 1010)	
Cleveland, Ohio 44114)	
)	
OKONITE INCORPORATED)	
A Delaware Corporation)	
Corporation Trust Company)	
1209 Orange Street)	
Wilmington, DE 19801)	
)	
OSRAM SYLVANIA, INC.)	
c/o C.T. Corporation Systems))

1300 East Ninth Street, Suite 1010)
Cleveland, Ohio 44114)

PITTSBURGH METALS PURIFYING CO.)
725 Saxonburg Blvd.)
Saxonburg, PA 16056-9727)

RECORD INDUSTRIAL COMPANY)
c/o Catherine M. Tierney)
Technical Claims Assistant)
Clair O'Dell Group)
3025 Chemical Road, Suite 200)
Plymouth Meeting, PA 10462-1737)

ROBERTSON-CECO CORP.)
fka H.H. Robertson Company)
c/o C.T. Corporation System)
120 S. Central Avenue)
Clayton, MO 63105)

ROCKBESTOS-SUPRENANT CABLE)
CORP.)
fka Rockbestos Company)
A Delaware Corporation)
c/o U.S. Corporation Company)
50 West Broad Street, Suite 1800)
Columbus, Ohio 43215)

ROCKWELL INTERNATIONAL CORP.)
c/o C.T. Corporation System)

350 N. St. Paul Street, Suite 2900)	
Dallas, Texas 75201)	
)	
TRECO CONSTRUCTION SERVICES,)	
INC., fka The Rust Engineering Co.)	
720 East Butterfield Road, 2 nd Floor)	
Lombard, IL 60148-5689)	
)	
SAFETY FIRST INDUSTRIES, INC.)	
42 nd Floor)	
600 Grant Street)	
Pittsburgh, PA 15219))
)	
THE SAGER CORPORATION)	
c/o Richard C. Polley)	
Dickie, McCamey & Chilcote))
Two PPG Place, Suite 400)	
Pittsburgh, PA 15222-5402)	
)	
SEPCO CORPORATION)	
A California Corporation)	
7301 Oranewood Avenue)	
Garden Grove, CA 92841-1411)	
)	

TASCO INSULATIONS, INC.)	
fka The Asbestos Service Company)	
c/o Daniel Michelac, Esq.)	
Gallagher Sharp Fulton & Norman)	
Seventh Floor, Bulkley Building)	
1501 Euclid Avenue)	
Cleveland, Ohio 44114)	
)	
THEIM CORPORATION)	
500 S. Marquette Avenue)	
P.O. Box 6)	
Oak Creek, WI 53154)	
)	
UNION BOILER COMPANY)	
P.O. Box 429)	
Nitro, WV 25143-0429)	
)	
UNIROYAL, INC.)	
A New Jersey Corporation)	
c/o Prentice Hall Corporation System))
50 West Broad Street, Suite 1800)	
Columbus, Ohio 43215)	
)	
UNIROYAL FIBER & TEXTILE)	
DIVISION))
OF UNIROYAL, INC.)	
70 Great Hill Road)	
Naugatuck, CT 06770))
)	
UNIVERSAL REFRACTORIES)	
P.O. Box 97)	

Wampum, PA 16157)	
)	
WHEELER PROTECTIVE APPAREL)	
CORP.)	
c/o Robert Wilkinson)	
P.O. Box 1618))
Pascagoula, MS 39568)	
)	
ZURN INDUSTRIES, INC.)	
aka Erie City Boilers)	
c/o C.T. Corporation Systems Corp.)	
1300 East Ninth Street, Suite 1010)	
Cleveland, Ohio 44114)	
)	
FLEXO PRODUCTS, INC.)	
An Ohio Corporation)	
c/o John D. Hill, Jr.)	
P.O. Box 450765)	
Westlake, Ohio 44145)	
)	
AMERICAN OPTICAL CORPORATION)	
c/o C. T. Corporation System, S.A.)	
101 Federal Street, #300)	
Boston, MA 02110)	
)	
AMCHEM PRODUCTS, INC.)	
C/o C.T. Corporation System, S.A.)	
1300 East Ninth Street, #1010)	
Cleveland, Ohio 44114)	
)	

C.E. THURSTON AND SONS, INC.)
C/o William W. Nexsen, Esq.)
Stackhouse, Smith & Nexsen)
1600 First Virginia Tower)
555 East Main Street)
Norfolk, VA 23510)

CERTAINTEED CORPORATION)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)

UNION CARBIDE CORPORATION)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)

DANA CORPORATION)
P.O. Box 1000)
Toledo, Ohio 43697)

QUIGLEY COMPANY, INC.)
235 East 42nd Street)
New York, NY 10017)

I.U. NORTH AMERICA, INC.)
Address Unknown)

C.P. HALL COMPANY)

30

C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
RED SEAL ELECTRIC)
3835 W. 150 th Street)
Cleveland, Ohio 44111)
)
ILLINOIS TOOL WORKS, INC. a.k.a.)
DEVCON CORPORATION)
30 Endicott Street)
Danvers, MA 01923)
)
SEALED AIR CORPORATION)
Fka W.R. Grace Company)
Park 80 East)
Saddle Brook, NJ 07663)
)
MAREMONT CORPORATION)
A Delaware Corporation)
C/o C.T. Corporation System)
1300 East Ninth Street #1010)
Cleveland, OH 44114)
)
COMBUSTION ENGINEERING, INC.)
A Delaware Corporation)
C/o Willman & Arnold, LLP)
705 McKnight Park Drive)
Pittsburgh, PA 15237)
)

JOHN DOES 1-100)
Manufacturers, Sellers or)
Installers of Asbestos-Containing)
Products)
)
Defendants)

COUNT ONE

1. Plaintiffs worked at sites in and around Ohio as previously stated in the caption.
2. Defendants, excluding Metropolitan Life, all times relevant and pertinent hereto, were engaged in the business of mining, milling, manufacturing, fabricating, designing, formulating, producing, creating, making, constructing, assembling and/or rebuilding asbestos-containing products or components thereof; and/or selling, distributing, preparing, blending, packaging, labeling and/or otherwise participated in placing asbestos-containing products in the stream of commerce to which plaintiffs were exposed during their employment.
3. The real names and addresses of defendants John Does 1-100 manufacturers, sellers or installers of asbestos-containing products have not been determined, despite reasonable efforts of the plaintiffs to do so.
4. Defendants, acting through their servants, employees, agents and representatives,

caused asbestos and asbestos-containing materials to be placed in the stream of interstate commerce.

5. During the course of plaintiffs' employment, they had been exposed to the defendant's asbestos and asbestos-containing materials, by virtue of installation and tear-out work, which exposure directly and proximately caused them to develop asbestos-related disease and to suffer other injury, including a greatly increased risk of developing mesothelioma, bronchogenic carcinoma, or other cancerous condition. Further, this increased cancer risk have caused plaintiffs to endure great mental anguish and will continue to cause such anguish in the future.

6. The illness and disability of the plaintiffs are the direct and proximate result of the negligence of the defendants in that they produced, sold or otherwise put into the stream of interstate commerce, asbestos and asbestos-containing materials, which the defendants knew or in the exercise of ordinary care, ought to have known were deleterious poisonous, and highly harmful to plaintiffs' health.

7. The illness and disability of the plaintiffs are the direct and proximate result of the negligence of the defendants in that even though the defendants knew or in the exercise of ordinary care, ought to have known that their asbestos and asbestos-containing materials were deleterious, poisonous and highly harmful to plaintiffs' health, and that he would not know of such dangers to his health, the defendants nonetheless:

(a) Failed to advise plaintiffs of the dangerous characteristics of their asbestos and asbestos-containing products;

(b) Failed or omitted to provide plaintiffs with the knowledge as to what would be reasonably safe and sufficient wearing apparel and proper protective equipment and appliances, if in truth there were any to protect him from being poisoned and disabled as he was, by exposure to such deleterious and harmful asbestos and asbestos-containing materials;

(c) Failed and omitted to place any warnings on their containers of said asbestos and asbestos-containing materials to warn the handlers thereof of the dangers to health in coming into contact with said asbestos and asbestos-containing materials;

(d) Failed and omitted to take reasonable precautions or exercise reasonable care to publish, adopt and enforce a safety plan and a safe method of handling and installing said asbestos and asbestos-containing materials.

8. The defendants impliedly warranted that said asbestos and asbestos-containing materials were of good and merchantable quality and fit for the intended use.

9. Plaintiffs were working in close proximity to the asbestos and asbestos-containing materials of the defendants, and his presence was known, or ought to have reasonably been anticipated by the defendants.

10. The implied warranty made by the defendants that their asbestos and asbestos-containing materials were of good and merchantable quality and fit for their particular intended use was breached in that certain harmful, poisonous and deleterious matter was given off into the atmosphere where plaintiffs carried out their duties working in and around asbestos and asbestos-containing materials.

11. As a direct and proximate result of the breach of the implied warranty of good and merchantable quality and fitness for the particular intended use, plaintiffs developed asbestos-related diseases.

12. The defendants manufactured and sold products which were defective at the time they left the control of the defendants, and which proximately caused the illness of plaintiffs, whom defendants knew or should have known would be exposed to their products.

13. Defendants violated the requirements of '402(A) of the Restatement of Torts, 2d, as adopted by the Supreme Court of the State of Ohio, all of which proximately resulted in the

illness of the plaintiffs.

14. As a direct and proximate result of the acts and omissions complained of above, plaintiffs have experienced great pain and suffering of mind and body, and will endure future pain and suffering of mind and body.

15. As a direct and proximate result of the acts and omissions complained of above, plaintiffs have incurred expenses for medical, hospital, and surgical care in an amount not yet determined, and will incur future such expenses.

16. As a direct and proximate result of the acts and omissions complained of above, plaintiffs have lost wages in an amount not yet determined.

COUNT TWO

17. Plaintiffs herein reallege paragraphs 1 through 16 above as though fully rewritten herein.

18. Defendants, individually and as a group since 1929 have been possessed of medical and scientific data which clearly indicates that their asbestos fibers and asbestos-containing products are hazardous to health; and prompted by pecuniary motives, the defendants, individually and collectively, ignored and intentionally failed to act upon said medical and scientific data and conspired to deprive the public, and particularly the users, including plaintiffs, of said medical and scientific data, and therefore deprived plaintiffs of the opportunity of free choice as to whether or not to expose himself to the asbestos and asbestos-containing products of said defendants; and further, willfully, intentionally and wantonly failed to warn plaintiffs of the serious bodily harm which would result from the inhalation of the asbestos fibers and the dust from their asbestos products.

19. The award for this Count should be in such an amount as would act as a deterrent to defendants and others from the future commission of like offenses and wrongs.

COUNT THREE

20. Plaintiffs herein reallege paragraphs 1 through 19 above as though fully rewritten herein.

21. Defendants, collectively and individually, manufactured, designed, selected, assembled, inspected, tested, maintained for sale, marketed, distributed, sold, supplied, delivered, and promoted asbestos-containing products which were generically similar and fungible in nature; and placed such material into the stream of interstate commerce.

22. Plaintiffs, through no fault of their own, may not be able to identify all of the asbestos-containing products or their manufacturers, marketers, sellers, distributors, or promoters due to the generic similarity and fungible nature of such products as produced and promoted by

these defendants.

23. As a direct and proximate result of the defendants' activities, plaintiff s were exposed to asbestos-containing material and sustained the injuries and damages described above.

24. Defendants are jointly and severally liable to the plaintiffs for the injuries and damages sustained by plaintiffs, described above, by virtue of industry-wide liability, or enterprise liability.

25. (a) Alternatively, defendants represent a substantial share of the asbestos-containing product market where plaintiffs worked and were exposed to asbestos.

(b) Defendants manufactured, designed, selected, assembled, marketed, distributed, sold, supplied, delivered, and promoted asbestos-containing products of the kind and nature to which plaintiffs were exposed during the period of his employment.

26. Defendants are severally liable to the plaintiffs based upon their pro-rata market share within the market described herein.

COUNT FOUR

27. Plaintiffs herein reallege paragraphs 1 through 26 above as though fully rewritten herein.

28. Plaintiffs have suffered a loss of consortium and have been deprived of the society, companionship, and assistance of their husbands.

COUNT FIVE

29. Plaintiffs herein reallege paragraphs 1 through 34 above as though fully rewritten herein.

30. In or about the year 1930, and at various times prior and subsequent thereto, up to and including the present time, defendant Metropolitan Life Insurance Company undertook and assumed a duty to provide the asbestos industry, the scientific community and company users of asbestos with information, inspections, instructions, supervision, recommendations, assistance, notices, reports, methods, findings, cautions, warnings, advice, designs, equipment, safeguards,

guidance and services to properly, adequately and reasonably provide safe working conditions, all allegedly to preserve and protect the life, health and safety of employees exposed to asbestos, including plaintiffs and their co-workers, and particularly to protect them from the dangerous and defective properties of asbestos, asbestos products and compounds and/or other dangerous substances at or about the workplace.

31. Plaintiffs aver that various employers and their employees, including plaintiffs and scientists and others similarly situated, were dependent upon the undertakings of the Defendant Metropolitan to preserve and protect the life, health and safety of employees at all times from the commencement of the said relationship between the asbestos industry and Defendant Metropolitan.

32. Defendant Metropolitan, by its active and passive negligence, failed to exercise by reason of its aforesaid undertakings and assumption of duty, thereby causing, creating or permitting dangerous conditions and exposure to dangerous and defective substances; and thereby failing to properly safeguard plaintiffs and all others similarly situated.

33. As a result of the aforesaid negligence of the defendant Metropolitan, plaintiffs were injured.

WHEREFORE, plaintiff demands judgment against the defendants jointly and severally in excess of Twenty-Five Thousand Dollars (\$25,000.00) and an amount for punitive damages, costs and attorney's fees and expenses in this action.

A trial by jury is hereby demanded to determine all issues.

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